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REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FOURTH SESSION OF THE COMMISSION

Draft report of the Commission

Rapporteur: Mr. Roman Kuzniar

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1998/22. Assistance to Guatemala in the field of human rights

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on human rights,

Recalling its resolution 1997/51 of 15 April 1997,

Taking note with satisfaction of the report by the members of the mission sent to Guatemala by the Secretary-General (E/CN.4/1998/93),

Expressing its appreciation to the Government of Guatemala and other actors for their cooperation with the mission appointed by the Secretary-General, which has enabled it to carry out its mandate to the full,

Acknowledging that institutionally there no longer exists an established State policy that violates human rights or individual guarantees in the country,

Acknowledging also the fundamental contribution that the United Nations Verification Mission in Guatemala (MINUGUA) has made to that end, and in general to the peace process,

Recalling that international cooperation in the field of human rights is one of the purposes of the Charter of the United Nations,

Congratulating the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), as signatories to the Agreement on a Firm and Lasting Peace, on the successful implementation of all the aspects concerned with the termination of the internal armed conflict,

Expressing its gratification at the progress achieved in the implementation of the peace agreements in Guatemala, which is considered positive and necessary for the consolidation of democracy and the full realization of human rights, particularly civil and political rights,

Considering that, despite this significant progress, the process of execution of the peace agreements has entered upon a phase in which further firm and important decisions are necessary in regard to the implementation of substantive aspects contained mainly in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, the Agreement on Social and Economic Aspects and the Agrarian Situation, and the Agreement on the Identity and Rights of Indigenous Peoples,

Requesting all political parties with parliamentary representation in Guatemala to implement as soon as possible the constitutional reforms, in accordance with what was determined in the peace agreements in order to give them the requisite judicial and constitutional validity,

Considering, in particular, that representatives of the Government of Guatemala jointly with representatives of the Mayan, Garífunas and Xincas organizations are conducting a process of dialogue and negotiation through the joint commissions set up in pursuance of the Agreement on the Identity and Rights of Indigenous Peoples, with the objective of eliminating the long-standing discrimination and exclusion and defining new mechanisms for political, economic, social and cultural participation by the indigenous peoples,

Taking into account the fact that the redefinition of a multicultural, multilingual and multiethnic nation, as also the need to give full legal and constitutional validity to the agreements, necessitates the constitutional reforms provided for in the peace agreements,

Calling upon the Government of Guatemala to intensify the policies aimed at improving conditions of public security and administration of justice, especially in the fight against impunity,

Expressing its interest in the continuation of progress in dealing with the national agrarian issue and with fiscal policies within the terms and the spirit established in the peace agreements,

Aware of the citizen security problem,

Expressing its confidence that, as stated by the Executive, the participation of the armed forces with the National Civil Police and the Public Prosecutor's Office will be temporary and subject to civilian authority,

Expressing its concern about the difficulties that have been encountered in the bringing into force and practical application of the Childhood and Youth Code, in conformity with the Convention on the Rights of the Child,

Considering that Guatemala meets the conditions for moving into a new phase of cooperation and technical assistance and that this must be encouraged,

Taking into account the cooperation programmes that Guatemala is receiving from other United Nations bodies,

Welcoming the establishment of a forum for exchange of views between governmental and non-governmental human rights organizations, whose objective must be joint analysis of policies and mechanisms for the protection and promotion of human rights, and urging the participants to consolidate that forum,

1. Commends the work performed by the members of the mission appointed by the Secretary-General, and requests the Government of Guatemala and other actors to take into account the conclusions and recommendations contained in the report submitted by that mission (E/CN.4/1998/93);

2. Declares its support for the actions of MINUGUA, which are contributing to the consolidation of democracy and the effective implementation of the peace agreements, and recommends the extension of its mandate until the completion of the established timetable;

3. Recognizes the efforts of the Government of Guatemala in the field of human rights, and encourages it further to promote human rights and fundamental freedoms and to intensify policies which will improve public security conditions and the administration of justice, especially in the fight against impunity;

4. Expresses its support for the work of the Commission for Historical Clarification, recommends the Government of Guatemala to collaborate with that Commission by providing it with all the information it requests, and urges the Government to adopt and promote the recommendations formulated in the Commission's final report;

5. Recalls the importance of the provisions contained in the Comprehensive Agreement on Human Rights, to the effect that it is a humanitarian duty to compensate and/or assist victims of human rights violations, priority being given to those in greatest need, such as uprooted populations, widows, orphans and relatives of missing persons, through measures and programmes of a civil and socio-economic nature, and appeals in furtherance of that objective to the cooperation of the international community;

6. Recommends the Government of Guatemala to ratify all international standards for the protection of human rights and establish all the necessary

mechanisms for active participation in their application, and to continue cooperating with the organs and bodies of the United Nations system for the promotion and defence of human rights;

7. Requests the Office of the United Nations High Commissioner for Human Rights, when the agreement on the provision of advisory services in the field of human rights signed between the High Commissioner's office and the Government of Guatemala expires, to renew it, providing assistance particularly to the Office of the Ombudsman, to governmental bodies, and to non-governmental organizations for the protection of human rights, of women and of indigenous populations;

8. Encourages the Government of Guatemala to expedite and intensify the provision of assistance and services to the most vulnerable sectors of the population, in conformity with the content and spirit of the peace agreements, particularly the Agreement on Social and Economic Aspects and the Agrarian Situation;

9. Expresses its wish that the structure and goals of tax and fiscal reform, on which the country's development largely depends, be in accordance with the terms established in the peace agreements;

10. Declares its support for the proposals for reform of the judicial system made by the Commission on the Strengthening of the Justice System, so that they may be implemented and progress made, through duly coordinated action with the Public Prosecutor's Office and the national civil police, towards solving the problem of citizen security;

11. Requests the Government of Guatemala and the indigenous peoples' organizations to give effect as soon as possible to the undertakings agreed to in the framework of negotiations and decisions of the joint commissions;

12. Encourages State organisms and all sectors of Guatemalan society to give effect as soon as possible to the commitments entered into with the signing of the Convention on the Rights of the Child;

13. Requests the acceleration of the mechanisms to facilitate the full integration of all demobilized persons into the country's civilian and productive life;

14. Urges the international community, and in particular the United Nations, to continue providing, especially in this transitional phase, their support to Guatemala, in order to achieve complete and timely implementation of the agreements signed and full realization of fundamental

human rights, supplying and increasing the technical and financial resources necessary for the execution of all the agreements;

15. Decides to conclude its consideration of the human rights situation in Guatemala.

43rd meeting
14 April 1998
[Adopted without a vote. See chap. XVII.]

1998/23. The right to food

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for his health and well-being, including food,

Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights in which the fundamental right of every person to be free from hunger is recognized,

Recalling further the Universal Declaration on the Eradication of Hunger and Malnutrition,

Bearing in mind the Rome Declaration on World Food Security and the Plan of Action of the World Food Summit, held in Rome from 13 to 17 November 1996,

Recalling its resolution 1997/8 of 3 April 1997,

Recognizing that the problems of hunger and food insecurity have global dimensions and that they are likely to persist and even to increase dramatically in some regions, unless urgent, determined and concerted action is taken, given the anticipated increase in the world's population and the stress on natural resources,

Reaffirming that a peaceful, stable and enabling political, social and economic environment is the essential foundation which will enable States to give adequate priority to food security and poverty eradication,

Reiterating, as did the Rome Declaration, that food should not be used as an instrument of political and economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures not in accordance with international law and the Charter of the United Nations, which endanger food security,

Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration and Plan of Action and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies, where coordinated efforts and shared responsibilities are essential,

1. Reaffirms that hunger constitutes an outrage and a violation of human dignity and, therefore, requires the adoption of urgent measures at the national, regional and international level for its elimination;

2. Also reaffirms the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities;

3. Considers intolerable that more than 800 million people, specially women and children, throughout the world, and particularly in developing countries, do not have enough food to meet their basic nutritional needs, which infringes their fundamental human rights;

4. Stresses the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, to reinforce national actions to implement sustainable food security policies;

5. Welcomes the initiative undertaken by the Office of the High Commissioner for Human Rights to convene, as requested by the Commission in resolution 1997/8, the Consultation on the Right to Adequate Food, as a concrete and practical response to objective 7.4 of the Rome Declaration and Plan of Action, in order to better define the rights relating to food in article 11 of the International Covenant on Economic, Social and Cultural Rights and to propose ways to implement and realize those rights as a means of achieving the commitments of the World Food Summit, and urges Member States to cooperate fully with the High Commissioner in this effort;

6. Endorses the proposal made by the Consultation to have a follow-up meeting in 1998 to pursue the discussions on the contents and means of implementation of the rights related to adequate food in order to provide the High Commissioner with a full set of recommendations concerning her response to the request of the World Food Summit and, in this regard, invites the High

Commissioner to promote and encourage broader participation by experts from Member States, relevant specialized agencies and programmes, in particular the Food and Agriculture Organization of the United Nations, as well as non-governmental organizations;

7. Invites the Committee on Economic, Social and Cultural Rights to consider, draft and adopt a general comment as a contribution to the clarification of the content of the rights related to food in article 11 of the International Covenant on Economic, Social and Cultural Rights, and as part of their input to the meeting proposed in paragraph 6 above;

8. Requests the High Commissioner for Human Rights to report on the implementation of the present resolution to the Commission on Human Rights at its fifty-fifth session.

51st meeting
17 April 1998
[Adopted without a vote. See chap. V.]

1998/24. Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development

The Commission on Human Rights,

Recalling that the purpose of the Universal Declaration of Human Rights is the full promotion and protection of human rights and fundamental freedoms,

Reaffirming the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, and the resolutions and decisions adopted by the United Nations in connection with the problem of the foreign debt of the developing countries,

Bearing in mind that the absolute amounts attained by the foreign debt and debt service of the developing nations indicate the persistent seriousness of this situation and that despite the improvement in some indicators, the foreign debt burden continues to be intolerable for a considerable number of developing countries,

Aware that the serious problem of the foreign debt burden remains one of the most critical factors adversely affecting economic, social, scientific and technical development and living standards in many developing countries, with serious effects of a social nature,

Stressing that the economic globalization process creates new risks and uncertainties,

Expressing its concern at the continuing decline in levels of official development assistance,

Considering that the measures for alleviating the debt problem, of both official and private origin, have not achieved an effective, equitable, development-oriented and durable solution to the outstanding debt and debt service of a large number of developing countries, especially the poorest and heavily indebted countries,

Bearing in mind the relationship between the heavy foreign debt burden and the considerable increase in poverty which is apparent at the world level and is especially large in Africa,

Recognizing that the foreign debt constitutes one of the main obstacles preventing the developing countries from fully enjoying their right to development,

1. Takes note of the report submitted by the Secretary-General in accordance with Commission resolution 1997/10 of 3 April 1997 (E/CN.4/1998/24);

2. Stresses the importance of continuing to implement immediate, effective and durable actions for alleviating the debt and debt-service burdens of developing countries with debt problems in the framework of the realization of economic, social and cultural rights;

3. Affirms that the permanent solution to the foreign debt problem lies in the establishment of a just and equitable international economic order which guarantees the developing countries, inter alia, better market access, stabilization of exchange rates and interest rates, access to financial and capital markets, adequate flows of financial resources and better access to the technology of the developed countries;

4. Stresses the need for the economic programmes arising from the foreign debt to take account of the specific characteristics, conditions and needs of the debtor countries and the need to incorporate the social dimension of development;

5. Affirms that the exercise of the basic rights of the people of the debtor countries to food, housing, clothing, employment, education, health

services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies and economic reforms arising from the debt;

6. Emphasizes the important need for the initiatives on the foreign debt, in particular the Debt Initiative for the heavily indebted poor countries and the decision of the Paris Club to go beyond the Naples terms, to be implemented completely and flexibly, and at the same time notes with concern the rigidity of the eligibility criteria approved by the international creditor community in the context of these initiatives;

7. Emphasizes the need for new flows of financial resources to the indebted developing countries, and urges the creditor countries and the international financial institutions to increase financial assistance on favourable terms as a means of supporting the implementation of the economic reforms, combating poverty, and achieving sustained economic growth and sustainable development;

8. Decides, in particular in the light of recent trends, to appoint, for a three-year period, a special rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights;

9. Requests the Special Rapporteur to present an analytical report to the Commission, on an annual basis, beginning at its fifty-fifth session, on the implementation of the present resolution, paying particular attention to:

(a) The negative effects of the foreign debt and the policies adopted to face it on the full enjoyment of economic, social and cultural rights in developing countries;

(b) Measures taken by Governments, the private sector and international financial institutions to alleviate such effects in developing countries, especially the poorest and heavily indebted countries;

10. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform his or her functions;

11. Urges Governments, international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the Special Rapporteur in the discharge of his or her mandate;

12. Recognizes that there is a need for more transparency in the activities of international financial institutions;

13. Considers that, in order to find a durable solution to the debt problem, there is a need for a political dialogue between creditor and debtor countries within the United Nations system, based on the principle of shared interests and responsibilities;

14. Requests the United Nations High Commissioner for Human Rights to pay particular attention to the problem of the debt burden of developing countries, in particular of the less developed countries, and especially the social impact of the measures arising from the foreign debt;

15. Decides to continue to consider this matter at its fifty-fifth session in connection with the corresponding agenda item.

51st meeting
17 April 1998
[Adopted by a vote of 27 votes to 16, with 9 abstentions. See chap. V.]

1998/25. Human rights and extreme poverty

The Commission on Human Rights,

Recalling that, in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights recognize that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Recalling also that the eradication of widespread poverty, including its most persistent forms, and the full enjoyment of economic, social and cultural rights and civil and political rights remain interrelated goals,

Deeply concerned that, in the year of the fiftieth anniversary of the Universal Declaration of Human Rights, extreme poverty continues to spread throughout the world, regardless of economic, social or cultural situations, and that its extent and manifestations are particularly severe in developing countries,

Bearing in mind the relevant provisions of the Vienna Declaration and Programme of Action (A/CONFERENCE.157/23) adopted by the World Conference on Human Rights,

Recalling its resolution 1997/11 of 3 April 1997, in which it expressed inter alia its satisfaction to the Special Rapporteur for his final report on human rights and extreme poverty,

Recalling also General Assembly resolution 50/107 of 20 December 1995 proclaiming the United Nations Decade for the Eradication of Poverty,

Stressing that, in the Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development, Governments committed themselves to endeavouring to ensure that all men and women, especially those living in poverty, could exercise the rights, utilize the resources and share the responsibilities that would enable them to lead satisfying lives and to contribute to the well-being of their families, their communities and humankind, and committed themselves to the goal of eradicating poverty throughout the world through national actions and international cooperation, as an ethical, social, political and economic imperative of humankind,

Noting with appreciation the report of the Secretary-General on women's real enjoyment of human rights, in particular those relating to the elimination of poverty, economic development and economic resources (E/CN.4/1998/22-E/CN.6/1998/22),

Further noting with satisfaction the report of the High Commissioner for Human Rights (E/CN.4/1998/122),

Welcoming the launching of a plan of action by the Microcredit Summit held at Washington, D.C., in February 1997, to give people living in poverty, particularly women, access to credit for the promotion of self-employment by 2005,

1. Reaffirms that:

(a) Extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them;

(b) It is essential for States to foster participation by the poorest people in the decision-making process in their communities, in the realization of human rights and in efforts to combat extreme poverty, and for people living in poverty and vulnerable groups to be empowered to organize themselves

and to participate in all aspects of political, economic and social life, particularly the planning and implementation of policies that affect them, so enabling them to become genuine partners in development;

2. Recalls that:

(a) To ensure the protection of the rights of all individuals, non-discrimination towards the poorest and the full exercise of all human rights and fundamental freedoms, a better understanding is needed of what is endured by people living in poverty, including women and children, and thought must be given to the subject, drawing on the experience and ideas of the poorest themselves and of those committed to working alongside them;

(b) In its resolution 1997/11, it requested the High Commissioner for Human Rights to give high priority to the question of human rights and extreme poverty, ensure better cooperation between the institutions and bodies involved, regularly inform the General Assembly of the evolution of the question and submit specific information on this question at events such as the evaluation of the World Conference on Human Rights planned for 1998, the special session of the General Assembly devoted to conclusions of the World Summit for Social Development, scheduled for 2000, and the evaluation, at the halfway point in 2002 and the end-point in 2007, of the first United Nations Decade for the Eradication of Poverty;

3. Requests the High Commissioner for Human Rights to include in the mid-term evaluation report on the Vienna Declaration and Programme of Action the progress made regarding the full enjoyment of all human rights and the alleviation of extreme poverty in accordance with the relevant provisions of the Declaration;

4. Calls upon:

(a) The General Assembly, specialized agencies, United Nations bodies and intergovernmental organizations to take into account the contradiction between the existence of situations of extreme poverty and exclusion from society, which must be overcome, and the duty to guarantee full enjoyment of human rights;

(b) States and intergovernmental and non-governmental organizations to continue to take into account, in the activities to be undertaken within the framework of the United Nations Decade for the Eradication of Poverty, the

links between extreme poverty and human rights, as well as the efforts to empower people living in poverty to participate in decision-making processes on policies that affect them;

5. Invites:

(a) The treaty bodies monitoring the application of human rights instruments, especially the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, to take into account, when considering the reports of States parties, the question of extreme poverty and human rights;

(b) States, the organs of the United Nations system, particularly the Office of the United Nations High Commissioner for Human Rights and UNDP, and intergovernmental and non-governmental organizations to focus the activities undertaken for the International Day for the Eradication of Poverty, 17 October 1998, on "Poverty and human rights in the framework of development", the theme chosen for 1998 in the context of the United Nations Decade for the Eradication of Poverty;

6. Decides to appoint, for a period of two years, an independent expert on the question of human rights and extreme poverty to:

(a) Evaluate the relationship between the promotion and protection of human rights and extreme poverty, including through the evaluation of measures taken at the national and international levels to promote the full enjoyment of human rights by persons living in extreme poverty;

(b) Take into account in particular the obstacles encountered and progress made by women living in extreme poverty as regards the enjoyment of their fundamental rights;

(c) Make recommendations and, as appropriate, proposals in the sphere of technical assistance;

(d) Report on these activities to the Commission on Human Rights at its fifty-fifth and fifty-sixth sessions and to make those reports available to the Commission on Social Development and the Commission on the Status of Women, as appropriate, for their sessions during the same years;

(e) Contribute to the General Assembly's evaluation in the year 2000 of the World Summit on Social Development by making his final report and his conclusions available to the preparatory committee for the special session of the General Assembly devoted to that evaluation;

(f) Make suggestions to the Commission on Human Rights at its fifty-fifth session on the main points of a possible draft declaration on human rights and extreme poverty so that the Commission can consider the possibility of initiating at the fifty-first session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities the drafting by that body of a text for examination by the Commission and possible adoption by the General Assembly, and to take into account in that regard, inter alia, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Vienna Declaration and Programme of Action, the Copenhagen Declaration and Programme of Action of the World Summit for Social Development, the Agenda for Development and the final report of Mr. Leandro Despouy (E/CN.4/Sub.2/1996/13);

7. Decides to examine this question at its fifty-fifth session under the same agenda item;

8. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/25 of 17 April 1998, endorses the Commission's decision to appoint, for a period of two years, an independent expert on the question of human rights and extreme poverty to:

"(a) Evaluate the relationship between the promotion and protection of human rights and extreme poverty, including through the evaluation of measures taken at the national and international levels to promote the full enjoyment of human rights by persons living in extreme poverty;

"(b) Take into account in particular the obstacles encountered and progress made by women living in extreme poverty as regards the enjoyment of their fundamental rights;

"(c) Make recommendations and, as appropriate, proposals in the sphere of technical assistance;

"(d) Report on these activities to the Commission on Human Rights at its fifty-fifth and fifty-sixth sessions and to make those reports available to the Commission on Social Development and the Commission on the Status of Women, as appropriate, for their sessions during the same years;

"(e) Contribute to the General Assembly's evaluation in the year 2000 of the World Summit on Social Development by making his final report and his conclusions available to the preparatory committee for the special session of the General Assembly devoted to that evaluation;

"(f) Make suggestions to the Commission on Human Rights at its fifty-fifth session on the main points of a possible draft declaration on human rights and extreme poverty so that the Commission can consider the possibility of initiating at the fifty-first session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities the drafting by that body of a text for examination by the Commission and possible adoption by the General Assembly, and to take into account in that regard, inter alia, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Vienna Declaration and Programme of Action, the Copenhagen Declaration and Programme of Action of the World Summit for Social Development, the Agenda for Development and the final report of Mr. Leandro Despouy (E/CN.4/Sub.2/1996/13)."

51st meeting
17 April 1998

[Adopted by a roll-call vote of 51 votes to 1. See chap. V]

1998/26 Racism, racial discrimination, xenophobia and related intolerance

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights, the Charter of the United Nations, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

Reaffirming also its firm determination and its commitment to eradicate totally and unconditionally racism in all its forms and racial discrimination,

and its conviction that racism and racial discrimination constitute a total negation of the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming further its resolution 1996/21 of 19 April 1996 and recalling General Assembly resolutions 51/79 of 12 December 1996, 52/109 and 52/111 of 12 December 1997 as well as resolution 1996/8 of 23 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Mindful of General Assembly resolution 45/105 of 14 December 1990, in which the Assembly declared once again that all forms of racism and racial discrimination, particularly in their institutionalized form, such as apartheid, or resulting from official doctrines of racial superiority of exclusivity, were among the most serious violations of human rights in the contemporary world and must be combated by all available means,

Recalling the recommendations of the two World Conferences to Combat Racism and Racial Discrimination, held in Geneva in 1978 and 1983,

Bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), which calls for the speedy and comprehensive elimination of all forms of racism, racial discrimination, xenophobia and related intolerance,

Deeply concerned that, despite continuing efforts, contemporary forms of racism, racial discrimination, any form of discrimination, inter alia against Blacks, Arabs and Muslims, xenophobia, Negrophobia, anti-Semitism and related intolerance persist and are even growing in magnitude, incessantly adopting new forms, including tendencies to establish policies based on racial, religious, ethnic, cultural and national superiority or exclusivity,

Particularly alarmed at the rise of racist and xenophobic ideas in political circles, in the sphere of public opinion and in society at large,

Conscious of the fundamental difference between, on the one hand, racism and racial discrimination as an institutionalized governmental policy or resulting from official doctrines of racial superiority or exclusivity and, on the other hand, other manifestations of racism, racial discrimination, xenophobia and related intolerance taking place in segments of many societies and perpetrated by individuals or groups, some of which are directed against migrant workers and their families,

Reaffirming, in this regard, the responsibility of Governments for safeguarding and protecting the rights of individuals residing in their territory against crimes perpetrated by racist or xenophobic individuals or groups,

Deeply concerned about the fact that the phenomenon of racism and racial discrimination against migrant workers continues to increase despite efforts undertaken by the international community to improve the protection of the human rights of migrant workers and members of their families,

Noting the report of the intergovernmental working group of experts on the human rights of migrants, (E/CN.4/1998/76),

Noting with grave concern that, despite the efforts of the international community, the principal objectives of the two Decades for Action to Combat Racism and Racial Discrimination have not been attained and that millions of human beings continue to this day to be victims of varied forms of racism and racial discrimination,

Noting also with grave concern that despite the efforts undertaken by the international community at various levels, racism, racial discrimination, xenophobia and related forms of intolerance, ethnic antagonism and acts of violence are showing signs of increase,

Deeply concerned that those advocating racism and racial discrimination misuse new communication technologies, including the Internet, to disseminate their repugnant views,

Aware that racism, being one of the exclusionist phenomena plaguing many societies, requires resolute action and cooperation for its eradication,

Reaffirming that impunity for crimes motivated by racist and xenophobic attitudes contributes to the weakening of the rule of law and tends to encourage the recurrence of such crimes,

Noting General Assembly resolution 48/91 of 20 December 1993, in which the Assembly proclaimed the Third Decade to Combat Racism and Racial Discrimination, beginning in 1993, and adopted the Programme of Action proposed for the Third Decade,

Having examined the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1998/79),

Observing that the manifestations of contemporary forms of racism, racial discrimination, xenophobia and related intolerance bode ill for the

international community, that racist propaganda and incitement to racial hatred are spreading and that racism is taking increasingly violent forms,

Underlining the importance of urgently eliminating growing and violent trends of racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such crimes, and requires resolute action and cooperation for its eradication,

Noting General Assembly resolution 52/111 by which the Assembly decided to convene a world conference against racism and racial discrimination, xenophobia and related intolerance, to be held not later than the year 2001,

Noting also that the Assembly in the same resolution decided that the Commission on Human Rights will serve as the Preparatory Committee for the Conference,

Considering that the World Conference should be action-oriented and aimed at the eradication of contemporary forms of racism, racial discrimination, xenophobia and related intolerance,

I

General

1. Expresses its profound concern and unequivocal condemnation of all forms of racism and racial discrimination, including related acts of racially motivated violence as well as all propaganda activities and organizations which attempt to justify or promote racism, racial discrimination and xenophobia and related intolerance in any form;

2. Declares that racism and racial discrimination are amongst the most serious violations of human rights in the contemporary world and must be combated by all available means;

3. Underlines the importance of effective action to create conditions that foster greater harmony and tolerance within societies;

4. Expresses its deep concern at and condemnation of manifestations of racism, racial discrimination, xenophobia and related intolerance against migrant workers and members of their families and other vulnerable groups in many societies;

5. Calls upon all States to review and, where necessary, revise their immigration policies with a view to eliminating all discriminatory policies

and practices against migrants, which are inconsistent with international human rights instruments;

6. Condemns all forms of racial discrimination and xenophobia as regards access to employment, vocational training, housing, schooling, health and access to social services;

7. Categorically condemns any role played by some print, audio-visual or electronic media in inciting acts of violence motivated by racial hatred;

8. Urges Governments to take all necessary measures against incitement to racial hatred, including those through print, audio-visual or electronic media;

9. Calls upon all States, where appropriate, to strengthen their national legislation and institutions for the promotion of racial harmony and notes the conclusions and recommendations of the Special Rapporteur in this regard, including those on the importance of integration of vulnerable groups in the mainstream societies;

10. Welcomes the active role played by non-governmental organizations in combating racism and assisting individual victims of racist acts;

11. Invites all Governments to take measures, where possible, to provide assistance and rehabilitation to victims of acts of racism, racial discrimination, xenophobia and related intolerance;

12. Encourages the mass media to promote ideas of tolerance and understanding among peoples and between different cultures;

13. Takes note with interest of general recommendation XV (42) of 17 March 1993 of the Committee on the Elimination of Racial Discrimination on article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, in which the Committee concluded that the prohibition of the dissemination of all ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as embodied in article 19 of the Universal Declaration of Human Rights, and recalled in article 5 of the Convention;

II

Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and coordination of activities

14. Takes note of the report of the Secretary-General on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (E/CN.4/1998/77, and Add.1 and 2);

15. Regrets the continued lack of interest, support and financial resources for the Third Decade and the Programme of Action, and that very few of the activities planned for the period 1994-1997 were carried out;

16. Recognizes the laudable and generous efforts by donors that have made contributions to the Trust Fund for the Programme for the Decade to Combat Racism and Racial Discrimination, but feels that these financial contributions have proved inadequate and that the General Assembly should consider all ways and means of financing the Programme of Action, including through the United Nations regular budget;

17. Regrets that a detailed report on the financial and personnel resources required for the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination was not presented at the fifty-second session of the General Assembly and urges the Secretary-General to submit the said report to the Assembly at its fifty-third session, and reiterates its request to the General Assembly to consider the possibility of providing the resources required for the implementation of the Programme of Action for the Third Decade;

18. Warmly calls upon all Governments, United Nations bodies, the specialized agencies and intergovernmental organizations, as well as interested non-governmental organizations, to fully contribute to the effective implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination;

19. Reiterates its request to the United Nations High Commissioner for Human Rights to take duly into account the repeated appeals of the General Assembly and the Economic and Social Council for the establishment of a mechanism within the Office of the High Commissioner for Human Rights as a focal point for coordinating all the activities of the Third Decade before they are carried out by the United Nations;

20. Affirms its determination to combat violence stemming from intolerance on the basis of ethnicity which it also considers an issue of particular gravity;

21. Recommends that States give priority to education as a principal means of preventing and eradicating racism and racial discrimination and of creating awareness of the principles of human rights, particularly among young people, and to the training of law enforcement personnel, inter alia through the promotion of tolerance and respect for cultural diversity;

III

Follow-up activities

22. Welcomes the convening, in Geneva of two seminars, from 5 to 9 May 1997 on immigration, racism and racial discrimination and from 10 to 14 November 1997 on the role of the Internet with regard to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, and takes note of the conclusions and recommendations contained in the reports of the seminars (E/CN.4/1998/77/Add.1 and 2);

23. Also welcomes the Cotonou Seminar of June 1997 and work of the Council of Europe in combating racism, racial discrimination and related intolerance;

24. Invites States to ensure that the competence of their institutions which deal with the promotion and protection of human rights encompasses issues linked to the struggle against racism and racial discrimination, and to promote cooperation, understanding and the exchange of experiences among them;

IV

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits

25. Takes note of the report of the Special Rapporteur (E/CN.4/1998/79);

26. Expresses its full support and appreciation for the work of the Special Rapporteur and for its continuation;

27. Requests the Special Rapporteur to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to enhance further their effectiveness and mutual cooperation;

28. Calls upon all Governments, intergovernmental organizations and other relevant organizations of the United Nations system, as well as non-governmental organizations, to supply information to the Special Rapporteur;

29. Urges all Governments to cooperate fully with the Special Rapporteur with a view to enabling him to fulfil his mandate to examine incidents of contemporary forms of racism, racial discrimination, any form of discrimination, inter alia against Blacks, Arabs and Muslims, xenophobia, Negrophobia, anti-Semitism and related intolerance;

30. Requests the Special Rapporteur to make the fullest use of all appropriate sources of information, including country visits and evaluation of the mass media, and to elicit responses from Governments with regard to allegations;

31. Commends those States that have so far invited and received the Special Rapporteur;

32. Invites the Governments of the States so far visited to consider ways to implement the recommendations contained in the reports of the Special Rapporteur and requests the Special Rapporteur to include in his report to the Commission at its fifty-fifth session, under the same agenda item, information on the measures taken to implement these recommendations, and to undertake follow-up visits, if necessary;

33. Notes with concern the increase in the use of new technologies in communications, in particular the Internet, to disseminate racist ideas and incite racial hatred;

34. Notes that the use of such technology can contribute to combating racism, racial discrimination, xenophobia and related intolerance;

35. Requests the High Commissioner for Human Rights to undertake research and consultations on the use of the Internet for purposes of incitement to racial hatred, racist propaganda and xenophobia and to draw up a programme of human rights education and exchanges over the Internet on experience in the struggle against racism, xenophobia and anti-Semitism;

36. Urges the High Commissioner for Human Rights to provide those countries which were visited by the Special Rapporteur, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

International Convention on the Elimination of All Forms of Racial Discrimination

37. Appeals to those States that have not yet done so to consider ratifying or acceding to the relevant international instruments, particularly the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Discrimination in Education, and calls upon the States that have done so to implement them;

38. Recommends that the issue of universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination as well as the reservations thereto and the question of the recognition of the competence of the Committee on the Elimination of Racial Discrimination to receive individual complaints be considered at the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance;

39. Calls upon States parties that have not submitted initial or periodic reports in accordance with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination to do so;

40. Urges States to limit the extent of any reservations they lodge to the International Convention on the Elimination of All Forms of Racial Discrimination and to formulate any reservation as precisely and as narrowly as possible, while ensuring that no reservation is incompatible with the object and purpose of the Convention or otherwise contrary to international law;

41. Calls upon States parties to the Convention, as appropriate, to adopt immediately positive measures aimed at the elimination of all forms of racial discrimination, xenophobia and related intolerance;

42. Requests the States parties to the Convention that have not yet done so to consider the possibility of making the declaration provided for in article 14 of the Convention;

VI

World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance

43. Takes note of the decision of the fifth Committee of the General Assembly that the preparatory process for the World Conference would

include Preparatory Committee meetings for a period of five working days each immediately prior to the session of the Commission on Human Rights in the years 2000 and 2001;

44. Decides to create an open-ended working group of the Commission to meet during the fifty-fifth session in order to review and formulate proposals for consideration by the Commission and possible forwarding to the Preparatory Committee at its first session;

45. Recommends to the General Assembly to request the Secretary-General to designate the United Nations High Commissioner for Human Rights as Secretary-General of the World Conference who, in that capacity, will assume the main responsibility for the preparations for the Conference;

46. Invites the Secretary-General of the World Conference to carry out consultations with States aimed at determining the date and venue for the Conference and to report to the Preparatory Committee on the results;

47. Invites the United Nations High Commissioner for Human Rights to devise and implement, with the Department of Public Information of the Secretariat, a world information campaign aimed at sensitizing world public opinion on the importance and objectives of the Conference, to publish in all the official languages an information pamphlet to be made available to non-governmental organizations, the media and the general public, and to inform the Preparatory Committee of developments in this regard;

48. Invites States and regional organizations to set up at the national or regional level a coordination structure responsible for launching and promoting preparations for the World Conference, and especially for sensitizing national public opinion on the importance and objectives of the Conference;

49. Urges the High Commissioner for Human Rights to help States and regional organizations to convene national and regional meetings or undertake other initiatives, including at the expert level, to prepare for the World Conference, and requests the regional preparatory meetings to present to the Preparatory Committee, through the High Commissioner, reports on the results of their deliberations, with concrete and pragmatic recommendations aimed at combating racism, racial discrimination, xenophobia and related intolerance, which will be duly reflected in texts of the draft final documents by the Preparatory Committee of the World Conference;

50. Invites non-governmental organizations to participate fully, in accordance with resolution 1996/31 of the Economic and Social Council, in the preparatory process, and, in accordance with the objectives of the Conference and based on their experience, to make concrete proposals regarding actions to be undertaken in future, directly or working with Governments, aimed at the fight against the scourge of racism, and to submit their recommendations in this regard to the Preparatory Committee through the High Commissioner;

51. Invites the Committee on the Elimination of Racial Discrimination to give high priority to the preparatory process for the World Conference and to present to the Commission at its fifty-fifth session and to the Preparatory Committee its contribution to the objectives of the Conference, including undertaking a series of studies, and to participate actively in the preparatory process and at the Conference itself;

52. Invites the Sub-Commission for the Prevention of Discrimination and Protection of Minorities to carry out studies without delay, within the framework of the objectives laid down in General Assembly resolution 52/111, and to transmit its recommendations to the Commission at its fifty-fifth session and to the Preparatory Committee through the Commission on Human Rights;

53. Invites the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, beginning with his report to the Commission at its fifty-fifth session, to draw on his extensive field experience, knowledge and studies to contribute to the work of the Preparatory Committee, including by identifying major issues to be considered within the framework of the objectives of the Conference;

54. Invites the relevant bodies and mechanisms of the United Nations, the specialized agencies and regional and international organizations to contribute effectively to the preparatory process for the Conference and to forward their recommendations to the Preparatory Committee, through the High Commissioner;

55. Invites the United Nations High Commissioner for Human Rights to submit to the Commission at its fifty-fifth session, within existing financial resources, a preliminary analytical study on the objectives of the World Conference as identified by the General Assembly;

56. Requests the United Nations High Commissioner for Human Rights to inform the Preparatory Committee of the steps taken to prepare the World Conference;

57. Invites the High Commissioner for Human Rights to submit to the Commission at its fifty-fifth session and to the Preparatory Committee at its first session, a compendium of references to publications and other works by experts and United Nations, regional and other bodies on the fight against racism, racial discrimination, xenophobia and related intolerance;

58. Recommends to the General Assembly to declare the year 2001 a year of mobilization against racism, racial discrimination, xenophobia and related intolerance aimed at drawing the world's attention to the objectives of the World Conference and to give new momentum to the political commitment;

59. Recommends that the activities of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination be focused towards the preparatory process for the World Conference and, in this regard, recommends that the High Commissioner for Human Rights organize symposiums, seminars and worldwide consultations in 1998, 1999, 2000 and 2001 on racism, racial discrimination, xenophobia and related intolerance;

60. Recommends that the World Conference result in a declaration and a programme of action to combat racism, racial discrimination, xenophobia and related intolerance;

61. Stresses the importance of taking systematically into account a gender perspective throughout the preparations for and the outcome of the World Conference;

62. Requests the Secretary-General to submit a report to the Commission at its fifty-fifth session on the implementation of the present resolution under the agenda item entitled "Racism, racial discrimination, xenophobia and related intolerance";

63. Decides to continue its consideration of the question at its fifty-fifth session under the agenda item entitled "Racism, racial discrimination, xenophobia and related intolerance".

51st meeting
17 April 1998
[Adopted without a vote. See chap. XII.]

1998/27. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The Commission on Human Rights,

Taking note of General Assembly resolutions 51/87 of 12 December 1996 and 52/118 of 12 December 1997, and recalling its resolution 1996/22 of 19 April 1996 as well as its decision 1997/105 of 3 April 1997, as well as other relevant resolutions,

Reaffirming that the full and effective implementation of United Nations human rights instruments is of major importance to the efforts of the Organization, pursuant to the Charter of the United Nations and the Universal Declaration of Human Rights, to promote universal respect for an observance of human rights and fundamental freedoms,

Considering that the effective functioning of treaty bodies established pursuant to United Nations human rights instruments is indispensable for the full and effective implementation of such instruments,

Reiterating its concern about the large number of overdue reports under the United Nations human rights instruments,

Reiterating also its concern about the increasing backlog of reports on the implementation by States parties of certain United Nations human rights instruments and about delays in consideration of reports by treaty bodies,

Concerned that the lack of adequate resources impedes the effective functioning of the treaty bodies, including in regard to their ability to work in the applicable working languages,

Recalling that the effectiveness of the treaty bodies in encouraging the realization by States parties of their obligations under the United Nations human rights instruments requires constructive dialogue aimed at assisting States parties in identifying solutions to human rights problems and should be based on the reporting process supplemented by information from all relevant sources which should be shared with all interested parties,

Conscious of the importance of coordination of the human rights promotion and protection activities of the United Nations bodies active in the field of human rights,

1. Welcomes the reports of the seventh and eighth meetings of the persons chairing the human rights treaty bodies (A/51/482, annex and A/52/507, annex), held at Geneva from 16 to 20 September 1996 and from

15 to 19 September 1997, respectively, and the holding of the ninth meeting in Geneva from 25 to 27 February 1998, and takes note of the conclusions and recommendations of those meetings;

2. Encourages each treaty body to continue to give careful consideration to the relevant conclusions and recommendations contained in the reports of the persons chairing the human rights treaty bodies;

3. Takes note of the report of the Secretary-General on the effective functioning of bodies established pursuant to United Nations human rights instruments (E/CN.4/1998/85 and Add.1 and Corr.1);

4. Welcomes the submission of comments by Governments, United Nations bodies and specialized agencies, non-governmental organizations and interested persons on the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system (E/CN.4/1997/74) and the Secretary-General's report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations;

5. Notes with appreciation the attention given by the human rights treaty bodies and the persons chairing the human rights treaty bodies to the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system and to the Secretary-General's report on the comments by Governments, United Nations bodies and specialized agencies, non-governmental organizations and interested persons;

6. Invites the Secretary-General to continue to solicit the views of Governments, United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, taking into account further developments, to the Commission at its fifty-sixth session;

7. Emphasizes the need to ensure financing and adequate staff and information resources for the operations of the human rights treaty bodies and, with this in mind:

(a) Reiterates its request that the Secretary-General provide adequate resources in respect of each treaty body;

(b) Calls upon the Secretary-General to make the most efficient use of existing resources in order to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information;

(c) Calls upon the Secretary-General to seek in the next biennium the resources within the United Nations regular budget necessary to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information;

8. Notes with interest the proposal for a plan of action to enhance the resources available to all the human rights treaty bodies, and encourages the High Commissioner for Human Rights to prepare a draft plan of action for consideration by the persons chairing the treaty bodies at their next meeting;

9. Takes note of the measures taken by each of the human rights treaty bodies to improve their functioning, as reflected in their respective annual reports, and urges continuing efforts by the human rights treaty bodies and the Secretary-General to help improve the meeting of reporting obligations by States parties and to reduce the backlog in the consideration of reports by treaty bodies;

10. Welcomes the continuing efforts by the human rights treaty bodies and the Secretary-General aimed at streamlining, rationalizing, rendering more transparent and otherwise improving reporting procedures, and urges the Secretary-General, the treaty bodies and the next meeting of the persons chairing the treaty bodies to continue to examine ways of reducing the duplication of reporting required under the different instruments, without impairing the quality of reporting, and of generally reducing the reporting burden on States parties;

11. Takes note with appreciation of the efforts of the persons chairing the treaty bodies to promote appropriate reforms of the reporting system with a view to, inter alia, reducing the reporting burden on States parties while maintaining the quality of reporting, and encourages them to continue these efforts, including through ongoing examination of the proposal for reports focused on a limited range of issues and of opportunities for harmonizing the general guidelines regarding the form and content of reports, the timing of consideration of reports, and the methods of work of the treaty bodies;

12. Urges States parties to contribute, individually and through meetings of States parties, to identifying and implementing ways of further streamlining, rationalizing, avoiding duplication in and otherwise improving reporting procedures;

13. Urges States parties to make every effort to meet their reporting obligations under United Nations human rights instruments;

14. Welcomes the publication of the revised Manual on Human Rights Reporting, and requests the United Nations High Commissioner for Human Rights to take the necessary measures to ensure that the revised Manual will be translated into all official languages at the latest by 31 December 2000;

15. Welcomes the recommendation made at the meetings of the persons chairing the human rights treaty bodies that a priority of the technical cooperation programme of the Office of the High Commissioner for Human Rights should be to provide assistance to States parties, upon their request, with the implementation of their obligations under United Nations human rights instruments and, in particular, the recommendation made at the ninth meeting concerning the provision of assistance to States, upon their request, in the process of ratifying such instruments and the preparation of initial reports;

16. Invites States parties that have not yet submitted their initial reports under United Nations human rights instruments to avail themselves, where necessary, of technical assistance;

17. Encourages the human rights treaty bodies to continue to identify specific possibilities for technical assistance, to be provided at the request of the State concerned, in the regular course of their work of reviewing the periodic reports of States parties, and encourages States parties to consider carefully the concluding observations of the treaty bodies in identifying their needs for technical assistance;

18. Urges each State party whose report has been examined by a treaty body to translate, publish and make available in its territory the full text of the concluding observations of the treaty body on its report and to provide adequate follow-up to those observations;

19. Welcomes the contribution to the work of the human rights treaty bodies made by the specialized agencies and United Nations bodies, and encourages the specialized agencies and United Nations bodies, the Office of the High Commissioner for Human Rights and the persons chairing the human rights treaty bodies to continue to explore specific measures to intensify the

cooperation among them, and also encourages in this context meetings of the persons chairing the human rights treaty bodies to invite, when appropriate, senior representatives of the specialized agencies and United Nations bodies to attend their meetings;

20. Recognizes the important role played by non-governmental organizations in all parts of the world in the effective implementation of all human rights instruments, and encourages the exchange of information between the human rights treaty bodies and such organizations;

21. Recalls, with regard to the election of the members of the human rights treaty bodies, the importance of giving consideration to equitable geographic distribution of membership and to the representation of the principal legal systems, and of bearing in mind that the members shall be elected and serve in their personal capacity and shall be of high moral character, acknowledge impartiality and recognized competence in the field of human rights, and encourages States parties, individually and through meetings of States parties, to consider how to give better effect to these principles;

22. Welcomes the continuing emphasis by the persons chairing the human rights treaty bodies that the enjoyment of the human rights of women should be monitored closely by each treaty body within the purview of its mandate and, in this regard, welcomes the request of the persons chairing the human rights treaty bodies that the Division for the Advancement of Women of the Secretariat should prepare a study, for use by the United Nations High Commissioner for Human Rights and the treaty bodies, analysing what each treaty body has done to incorporate gender perspectives into its work and making practical suggestions about what each could do to further incorporate gender perspectives;

23. Also welcomes the contribution of the treaty bodies, within their mandates, to the prevention of violations of human rights, in the context of their consideration of reports under their respective human rights treaties;

24. Encourages the persons chairing the human rights treaty bodies to pursue at their next meeting the reform process aimed at improving the effective implementation of international instruments on human rights;

25. Requests the Secretary-General to report to the Commission on Human Rights at its fifty-sixth session on measures taken to implement the present resolution and obstacles to its implementation, and on measures taken

or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies;

26. Decides to consider the question on a priority basis at its fifty-sixth session under the agenda item entitled "Effective functioning of bodies established pursuant to United Nations human rights instruments".

51st meeting
17 April 1998
[Adopted without a vote. See chap. XIV.]

1998/28. Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Recalling its previous resolutions, in particular resolutions 1992/66 of 4 March 1992 and 1997/22 of 11 April 1997, as well as the terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as defined by the Commission and its particular responsibilities established, inter alia, in Commission resolutions 8 (XXIII) of 16 March 1967 and 17 (XXXVII) of 10 March 1981, Economic and Social Council resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970, and the relevant resolutions of the General Assembly,

Taking note of the report of the working group on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1994/3) and of Sub-Commission decision 1994/117 of 26 August 1994,

Taking note also of the reports of the Sub-Commission and its Chairman on the forty-ninth session (E/CN.4/1998/2-E/CN.4/Sub.2/1997/50 and E/CN.4/1998/88),

1. Reaffirms that the Sub-Commission on Prevention of Discrimination and Protection of Minorities can best assist the Commission on Human Rights by providing it with recommendations based on the expert views and perspectives of independent members, which should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices;

2. Welcomes further steps undertaken by the Sub-Commission to reform and improve its methods of work, in particular:

(a) The process of restructuring its agenda during its forty-ninth session;

(b) The efforts made during its forty-ninth session to implement its decision 1996/114 to achieve a compilation of the existing rules of procedure and procedural questions to be resolved;

(c) The decision to limit the initiation of new studies (decision 1996/113) and the adoption of criteria for new studies (decision 1997/112);

(d) The establishment of a sessional working group on the methods of work of the Sub-Commission (decision 1997/104);

(e) The efforts made during its forty-ninth session to enhance its cooperation with all relevant bodies;

3. Takes note with interest of Sub-Commission decisions 1996/115 and 1997/113, and invites it to continue its efforts to avoid duplication with the work of the Commission on Human Rights,

4. Requests the Sub-Commission to further improve its efficiency, taking into account the views of Member States, and, in this context, calls upon the Sub-Commission and its members:

(a) To focus on its primary role as an advisory body of the Commission on Human Rights;

(b) To give particular attention to the selection of studies, taking into account recommendations of the Commission on Human Rights and of treaty bodies, and, when choosing subjects for study, to explain the choice made so as to enable the Commission adequately to assess the need for that study, and to complete all studies within a reasonable time;

(c) To strictly adhere to the principles of independence, impartiality and expertise;

(d) To facilitate efficient and effective participation of non-governmental organizations;

(e) To improve consultations with special rapporteurs undertaking studies for the Sub-Commission;

(f) To further enhance cooperation with mechanisms of the Commission and, within their competence, with all relevant bodies, including human rights treaty bodies and relevant United Nations research institutions;

(g) To focus strictly on questions relating to human rights in accordance with its mandate;

5. Calls upon States to nominate as members and alternates independent experts of recognized competence in the field of human rights as well as to respect fully the independence of elected members and alternates;

6. Requests States nominating candidates for the Sub-Commission to submit nominations sufficiently early so as to enable the members of the Commission to assess thoroughly the qualifications of the nominees;

7. Requests the Secretary-General to continue to give strong support to the Sub-Commission and, in particular, to ensure that Sub-Commission documents are available in all the official United Nations languages in good time before the session;

8. Also requests the Secretary-General, in responding to requests from the Sub-Commission, to solicit information from Governments and intergovernmental and non-governmental organizations, to agree to such requests only after they have been approved by the Commission on Human Rights;

9. Takes note of Sub-Commission resolution 1997/17 and

(a) Calls upon the Sub-Commission to devote sufficient time at its fiftieth session to the discussion of its working methods and to prepare specific recommendations on that issue for consideration by the Commission on Human Rights;

(b) Authorizes the Sub-Commission to organize its four-week session so that it shall not hold more than 30 public meetings;

(c) Decides that for the balance of the session the Sub-Commission shall meet in private session to consider the implementation of the present resolution and to consider other appropriate issues;

(d) Requests the Sub-Commission to report to the Commission on Human Rights on the results of this method of organization;

10. Invites the Chairman of the Commission to address the Sub-Commission about the debate under this item;

11. Requests the Chairman of the Sub-Commission at its fiftieth session to report to the Commission at its fifty-fifth session on significant aspects of the work of the Sub-Commission.

51st meeting
17 April 1998

[Adopted without a vote. See chap. XV.]

1998/29. Minimum humanitarian standards

The Commission on Human Rights,

Gravely concerned at the large number of situations where internal violence causes extensive suffering and breaches of the principles of humanity and undermines the protection of human rights,

Conscious of the desirability of continuing to study the principles of humanity governing the behaviour of all persons, groups and public authorities,

Emphasizing, in this regard, the need to identify and implement measures to prevent violations and abuses of human rights and fundamental freedoms, in particular the right to life and integrity of the individual,

Recalling its resolution 1997/21 of 11 April 1997 and welcoming the analytical report of the Secretary-General on the issue of fundamental standards of humanity (E/CN.4/1998/87 and Add.1),

1. Recognizes the desirability of identifying fundamental standards of humanity applicable in all situations in a manner consistent with international law, including the Charter of the United Nations;

2. Also recognizes in this regard the vital importance of the existence in each country of appropriate national legislation for dealing with such situations in a manner consistent with the rule of law;

3. Welcomes the discussion on the various issues involved as set out in the analytical report of the Secretary-General and invites Governments, United Nations bodies, the human rights treaty bodies, mechanisms of the Commission on Human Rights and intergovernmental organizations, as well as regional organizations and non-governmental organizations, to comment on these issues;

4. Recognizes that the analytical report identifies issues that need further study;

5. Requests the Secretary-General, in coordination with the International Committee of the Red Cross and within existing resources, to continue to study and consult on the issues identified for further clarification in the analytical report and to submit a report entitled "Fundamental standards of humanity" to the Commission at its fifty-fifth session.

51st meeting
17 April 1998
[Adopted without a vote. See chap. XV.]

1998/30. Traffic in women and girls

The Commission on Human Rights,

Recalling all previous resolutions on the problem of traffic in women and girls adopted by the General Assembly and the Commission on Human Rights as well as the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,

Reaffirming the provisions adopted by the World Conference on Human Rights, the World Summit for Social Development, the Fourth World Conference on Women and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders pertaining to the traffic in women and children,

Acknowledging the work done by intergovernmental and non-governmental organizations in compiling information on the scale and complexity of the problem of trafficking, in providing shelter for trafficked women and children, and in effecting their voluntary repatriation to their countries of origin,

Noting with concern the increasing number of women and girls who are being victimized by traffickers and acknowledging that trafficking also victimizes young boys,

Stressing the urgent need to eliminate all forms of sexual violence and trafficking, including for prostitution, which are violations of human rights of women and girls and are incompatible with the dignity and worth of the human person, through the adoption of effective measures nationally, regionally and internationally,

1. Takes note with appreciation of the report of the Secretary-General on the traffic in women and girls (A/52/355);

2. Welcomes national, regional and international efforts to implement the recommendations of the World Congress Against Commercial Sexual Exploitation of Children, and calls upon Governments to take further measures in that regard;

3. Calls upon Governments to criminalize trafficking in women and girls in all its forms, to condemn and penalize all the offenders involved, including intermediaries, whether their offence was committed in their own or in a foreign country, while ensuring that the victims of those practices are not penalized, and to penalize persons in authority found guilty of sexually assaulting victims of trafficking in their custody;

4. Also calls upon Governments of countries of origin, transit and destination and appropriate regional and international organizations to implement the Platform for Action of the Fourth World Conference on Women by:

(a) Considering the ratification and enforcement of international conventions on trafficking in persons and on slavery;

(b) Taking appropriate measures to address the root factors, including external factors that encourage trafficking in women and girls for prostitution and other forms of commercial sex, and strengthening existing legislation with a view to providing better protection of the rights of women and girls and punishing the perpetrators through criminal and civil measures;

(c) Increasing cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking;

(d) Allocating resources to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking, including through job training, legal assistance and health care; and

(e) Developing educational and training programmes and policies and considering enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children;

5. Invites Governments, with the support of the United Nations, to formulate manuals for the training of personnel who receive and/or hold in temporary custody victims of gender-based violence, including trafficking, with a view to sensitizing them to the special needs of the victims;

6. Encourages relevant United Nations bodies and organizations, including the United Nations International Research and Training Institute for the Advancement of Women, the United Nations Development Fund for Women, the United Nations Children's Fund, the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization, as well as the International Organization for Migration, to contribute to the preparation of guidelines for the use of Governments in the elaboration of their manuals, in cooperation with relevant intergovernmental and non-governmental organizations;

7. Also encourages the Office of the High Commissioner for Human Rights to continue to include the issue of traffic in women and girls in its programme of work under its advisory, training and information activities,

with a view to providing assistance to Governments, upon their request, in instituting preventive measures against trafficking through education and appropriate information campaigns;

8. Invites the Special Rapporteur on violence against women and the Special Rapporteur on the sale of children, child prostitution and child pornography of the Commission on Human Rights and the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue addressing, within their respective mandates, the problem of trafficking in women and girls as a priority concern, and to recommend, in their reports, measures to combat such phenomena;

9. Also invites relevant intergovernmental and non-governmental organizations to provide advisory services to Governments, upon their request, in planning and setting up rehabilitation programmes for victims of trafficking and in training personnel who will be directly involved in the implementation of those programmes;

10. Requests the Secretary-General to provide the Commission, at its fifty-fifth session, with his report to the General Assembly at its fifty-third session on the implementation of the present resolution;

11. Decides to continue its consideration of the question at its fifty-fifth session under the relevant agenda item.

51st meeting
17 April 1998
[Adopted without a vote. See chap. XV.]

1998/31. Human rights of persons with disabilities

The Commission on Human Rights,

Mindful of the pledge made by States, under the Charter of the United Nations, to take action jointly and separately, in cooperation with the United Nations, in order to promote a better quality of life, full employment, and conditions for economic and social progress and development,

Recalling that all persons with disabilities have the right to protection against discrimination and to full and equal enjoyment of their human rights, as laid down inter alia in the provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights,

the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and of the International Labour Organization Convention No. 159,

Recalling also the report of the Secretary-General, to the General Assembly on the third review and appraisal of the World Programme of Action concerning Disabled Persons (A/52/351),

Reaffirming the continuing validity and value of the World Programme of Action concerning Disabled Persons, adopted by the General Assembly at its thirty-seventh session, which provides a firm and innovative framework for promoting and protecting the human rights of persons with disabilities,

Mindful of the unreserved reaffirmation in the Vienna Declaration and Programme of Action, and by the Fourth World Conference on Women of the human rights and fundamental freedoms of persons with disabilities, as well as the recognition in the Programme of Action of the International Conference on Population and Development and the Programme of Action of the World Summit for Social Development of a pressing need for, inter alia, the realization of the goals of full participation and equality for persons with disabilities,

Reaffirming its resolution 1996/27 of 19 April 1996 on the human rights of persons with disabilities,

Noting the report of the Special Rapporteur of the Commission for Social Development on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (A/52/56, annex),

Reaffirming Economic and Social Council resolutions 1997/19 on equalization of opportunities for persons with disabilities and 1997/20 on children with disabilities,

Recalling General Assembly resolution 48/96 of 20 December 1993, by which the Assembly adopted the Standards Rules on the Equalization of Opportunities for Persons with Disabilities,

Recalling also General Assembly resolution 52/107 of 12 December 1997, in which the Assembly called for the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities,

Welcoming initiatives to hold international conferences relating to persons with disabilities, particularly the holding of the Fifth World Assembly of Disabled People's International at Mexico City in December 1998, on the theme "Towards an inclusive twenty-first century",

Re-emphasizing the responsibility of Governments for removing or facilitating the removal of barriers and obstacles to the full integration

and participation of persons with disabilities in society, and supporting their efforts to develop national policies to reach specific objectives,

Recognizing the contribution of non-governmental organizations, especially organizations of persons with disabilities, in the global effort to bring about full participation and equality for persons with disabilities and to ensure the full enjoyment of human rights by persons with disabilities,

Noting the reports of Mr. Leandro Despouy, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the Office of the High Commissioner for Human Rights publication Human Rights and Disabled Persons, in which international mechanisms for the protection and promotion of the human rights of persons with disabilities, such as an ombudsman, are proposed,

Noting also the International Labour Organization survey of the law and practice of States parties to Convention No. 159,

Concerned at the extent of disabilities caused by the indiscriminate use of anti-personnel mines, particularly among civilian populations,

1. Recognizes that any violation of the fundamental principle of equality and any discrimination or other negative differential treatment of persons with disabilities inconsistent with the United Nations Standard Rules on Equalization of Opportunities for Persons with Disabilities is an infringement of the human rights of persons with disabilities;

2. Calls upon the Secretary-General to maintain the integrity of programmes within the United Nations system relating to persons with disabilities, including the United Nations Voluntary Fund on Disability, in order to promote the rights and the equalization of opportunities and full inclusion within societies of persons with disabilities;

3. Welcomes the renewal of the mandate of the Special Rapporteur on disability of the Commission for Social Development, and thanks him for addressing the Commission on Human Rights in the year of the fiftieth anniversary of the Universal Declaration of Human Rights;

4. Invites the Special Rapporteur of the Commission for Social Development to address the Commission on Human Rights at its fifty-sixth session;

5. Takes note of the global survey of government action on disability policy published in 1997 by the Office of the Special Rapporteur on disability;

6. Calls upon States to cooperate fully with the Special Rapporteur, to meet his requests for information and to provide relevant data to the Committee on Economic, Social and Cultural Rights;

7. Encourages non-governmental organizations active in the protection and promotion of the human rights of persons with disabilities to cooperate closely with each other, and to provide relevant information to the Committee on Economic, Social and Cultural Rights and to the Office of the High Commissioner for Human Rights;

8. Also encourages such non-governmental organizations to avail themselves of the technical assistance of the Office of the High Commissioner for Human Rights to assist them to function effectively in the human rights sphere;

9. Encourages Governments to support non-governmental organizations active in the promotion and protection of the human rights of persons with disabilities;

10. Recognizes the right of persons with disabilities, individually and collectively, to form and become members of organizations of persons with disabilities and the right of such organizations to speak for and act as legitimate representatives of their members;

11. Encourages all the human rights treaty monitoring bodies to respond positively to its invitation to monitor the compliance of States with their commitments under the relevant human rights instruments in order to ensure full enjoyment of those rights by persons with disabilities, and urges Governments to cover fully the question of the human rights of persons with disabilities in complying with reporting obligations under the relevant United Nations human rights instruments;

12. Invites all special rapporteurs, in the course of carrying out their mandates, to take into account the situation and human rights of persons with disabilities;

13. Urges Governments to implement, with the cooperation and assistance of relevant organizations, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, having particular regard for

the needs of women, children and persons with developmental and psychiatric disabilities in order to guarantee their human dignity and integrity;

14. Invites Governments and the private sector to contribute to the United Nations Voluntary Fund on Disability, with a view to providing additional support for the implementation of the Standard Rules, within the context of the World Programme of Action concerning Disabled Persons;

15. Requests the Secretary-General to continue to ensure appropriate support for the effective functioning of the Long-Term Strategy to Implement the World Programme of Action concerning Disabled Persons to the Year 2000 and Beyond;

16. Expresses grave concern that situations of armed conflict have especially devastating consequences for the human rights of persons with disabilities;

17. Welcomes increased international efforts in various forums with respect to anti-personnel mines, and in this regard takes due note of the conclusion of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction and its implementation by those States that become parties to it, as well as of the amended Mines Protocol of the Convention on Prohibitions or Restrictions on the use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects;

18. Calls upon all States and relevant United Nations bodies, including the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, to contribute on an ongoing basis to international mine clearance efforts, and urges States to take further action to promote gender- and age-appropriate mine-awareness programmes and rehabilitation, thereby reducing the number and the plight of victims;

19. Encourages the development of programmes for persons with disabilities to enable them to develop their potential to fully participate in all aspects of society;

20. Requests the Secretary-General to report biennially to the General Assembly on the progress of efforts to ensure the full recognition and enjoyment of the human rights of persons with disabilities;

21. Also requests the Secretary-General to make available to the Commission at its fifty-fifth session the latest report of the Special

Rapporteur on disability of the Commission for Social Development on his monitoring of the Standard Rules on the Equalization of Opportunity for Persons with Disabilities;

22. Calls upon the United Nations Development Programme and all intergovernmental institutions for development cooperation to integrate disability measures into their mainstream activities;

23. Requests that all United Nations organizations and specialized agencies address the problems that exist in creating equal opportunities for persons with disabilities at all levels;

24. Encourages Governments to work towards developing appropriate education policies and practices for children and adults with disabilities, to include persons with disabilities in strategies and plans aimed at eradicating poverty, promoting education and enhancing employment, and to take account of the right of persons with disabilities to housing, shelter, transport and supportive equipment;

25. Invites the International Labour Organization, in cooperation with governments and intergovernmental bodies, to take the lead internationally in formulating policies and strategies that will lead to equal job opportunities;

26. Invites Governments and non-governmental organizations to collect and collate appropriate information and data on persons with disabilities, to assist in the formulation of effective policies to address issues of equality;

27. Recommends that the Office of the High Commissioner for Human Rights take account of information on legislation affecting the human rights of persons with disabilities which has been collected by the Special Rapporteur on disability of the Commission for Social Development;

28. Reaffirms its commitment to ensuring that the human rights of persons with disabilities and their concerns for full participation in all aspects of society continue to be addressed in all of its work;

29. Decides to continue to consider the question at its fifty-sixth session under the agenda item entitled "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities".

51st meeting
17 April 1998
[Adopted without a vote. See chap. XV.]

1998/32. Privatization of prisons

The Commission on Human Rights,

Taking note of resolution 1997/26 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having taken note of the working paper submitted by Mr. Miguel Alfonso Martínez (E/CN.4/Sub.2/1991/56) as well as the outline prepared by Ms. Claire Palley on the subject (E/CN.4/Sub.2/1993/21),

Recalling its resolution 1997/22 of 11 April 1997, in which the Commission, inter alia, requested that special attention be paid to the process of selection of studies to be undertaken,

Reiterating that studies to be undertaken by members of the Sub-Commission should be based on extended working papers, in which the subject of the proposed study is clearly identified,

Reiterating also that special rapporteurs of the Sub-Commission should be members of the Sub-Commission or their alternates,

Decides to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to reconsider its recommendation to appoint a Special Rapporteur on the privatization of prisons.

51st meeting
17 April 1998
[Adopted without a vote. See chap. XV.]

1998/33. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights

The Commission on Human Rights,

Guided by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling its resolution 1997/17 of 11 April 1997 on the realization of economic, social and cultural rights in general, and all other relevant resolutions,

Stressing the importance of the realization of economic, social and cultural rights in the context of the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights,

1. Welcomes:

(a) All relevant reports of the United Nations High Commissioner for Human Rights on economic, social and cultural rights;

(b) The relevant activities of intergovernmental and non-governmental organizations;

(c) The work, with special incidence on the visibility, promotion and protection of economic, social and cultural rights, carried out in the framework of the follow-up to relevant United Nations conferences, such as: the World Summit for Children (1990), the United Nations Conference on Environment and Development (1992), the World Conference on Human Rights (1993), the International Conference on Population and Development (1994), the World Summit for Social Development (1995), the Fourth World Conference on Women (1995), the United Nations Conference on Human Settlements (1996) and the World Food Summit (1996);

2. Notes with interest:

(a) The report of the Secretary-General pursuant to Commission resolution 1997/17 (E/CN.4/1998/25);

(b) All resolutions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights, in particular its resolution 1997/7 of 22 August 1997, on the realization of the right to education, including education in human rights;

(c) The work carried out by the Committee on Economic, Social and Cultural Rights;

(d) The proposals adopted by the Committee at its last sessions to enhance the central role played by the Committee in the promotion and protection of economic, social and cultural rights, (i) aiming at the adoption and implementation of a programme of action for the Committee and (ii) recommending to the Commission the appointment of a special rapporteur on economic, social and cultural rights;

(e) The recommendations adopted by the working group on structural adjustment programmes and economic, social and cultural rights;

3. Reaffirms:

(a) That, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights;

(b) The inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights and the process of development, the central purpose of which is the realization of the potentialities of the human person with the effective participation of all members of society in relevant decision-making processes as agents and beneficiaries of development, as well as with a fair distribution of its benefits;

(c) That all persons in all countries are entitled to the realization of their economic, social and cultural rights, which are indispensable to their dignity and the free development of their personality;

(d) The universality, indivisibility, interdependence and interrelationship of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights;

(e) The importance of international cooperation for the promotion and protection of all human rights, including economic, social and cultural rights;

(f) That the realization of all human rights and fundamental freedoms, and particularly economic, social and cultural rights, is a dynamic process and that, as is evident in today's world, a great deal remains to be accomplished;

4. Calls upon all States:

(a) To give full effect to the universality of economic, social and cultural rights;

(b) To consider signing and ratifying, and the States parties to implement, the International Covenant on Economic, Social and Cultural Rights;

(c) To secure, through national development policies and with international assistance and cooperation, full respect for economic, social

and cultural rights, giving priority to the individuals, most often women and girl children, and communities living in extreme poverty and therefore most vulnerable and disadvantaged;

(d) To consider in this context, as appropriate, the desirability of drawing up national action plans identifying steps to improve the situation of human rights in general with specific benchmarks designed to give effect to minimum essential levels of enjoyment of economic, social and cultural rights;

(e) To promote the effective and wide participation of representatives of civil society in decision-making processes related to the promotion and protection of economic, social and cultural rights;

5. Calls upon States parties to the International Covenant on Economic, Social and Cultural Rights:

(a) To submit their reports to the Committee on Economic, Social and Cultural Rights in a regular and timely manner;

(b) To promote a concerted national effort to ensure the participation of representatives of all sectors of civil society in the process of preparation of their periodic reports to the Committee on Economic, Social and Cultural Rights and in the implementation of the recommendations of the Committee;

6. Decides:

(a) As part of its efforts to impart a higher visibility to economic, social and cultural rights, to appoint, for a period of three years, a special rapporteur whose mandate will focus on the right to education, as laid down in article 26 of the Universal Declaration of Human Rights and in the relevant and applicable provisions of the International Covenant on Economic, Social and Cultural Rights, and would comprise the following:

(i) To report on the status, throughout the world, of the progressive realization of the right to education, including access to primary education, and the difficulties encountered in the implementation of this right, taking into account information and comments received from Governments, organizations and bodies of the United Nations system, other relevant international organizations and non-governmental organizations;

(ii) To promote, as appropriate, assistance to Governments in working out and adopting urgent plans of action, wherever they do not exist, to secure the progressive implementation,

within a reasonable number of years, of the principle of compulsory primary education free of charge for all, bearing in mind, inter alia, levels of development, the magnitude of the challenge and efforts by Governments;

(iii) To take into account gender considerations, in particular the situation and needs of the girl child, and to promote the elimination of all forms of discrimination in education;

(iv) To make his or her reports available to the Commission on the Status of Women whenever they concern the situation of women in the field of the right to education;

(v) To develop a regular dialogue and discuss possible areas of collaboration with relevant United Nations bodies, specialized agencies and international organizations in the field of education, inter alia United Nations Educational, Scientific and Cultural Organization, United Nations Children's Fund, United Nations Conference on Trade and Development and United Nations Development Programme, and with international financial institutions, such as the World Bank;

(vi) To identify possible types and sources of financing for advisory services and technical cooperation in the field of access to primary education;

(vii) To ensure, to the extent possible, coordination and complementarity with the work carried out in the framework of Sub-Commission resolution 1997/7, in particular the working paper on the right to education to be prepared by Mr. Mustapha Mehedi;

(viii) To submit to the Commission on Human Rights, beginning at its fifty-fifth session a report covering the activities relating to this mandate;

7. Requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of the mandate within existing overall United Nations resources:

(a) To invite the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to submit to the Commission on Human Rights information pertaining to their activities in promoting primary education, with specific reference to women and girls;

(b) To request the High Commissioner for Human Rights to urge all States parties to the International Covenant on Economic, Social and Cultural Rights to submit their comments on the report by the Committee on Economic, Social and Cultural Rights to the Commission on the draft optional protocol for the consideration of communications in relation to the Covenant (E/CN.4/1997/105, annex);

(c) To support the efforts carried out by the High Commissioner for Human Rights to implement the proposed programme of action designed to enhance the ability of the Committee on Economic, Social and Cultural Rights to assist interested Governments in their reporting obligations and its capacity to process and follow up on the examination of those reports and, accordingly, to request States parties to the International Covenant on Economic, Social and Cultural Rights to make voluntary financial contributions to ensure the adequate implementation of that programme of action;

8. Recommends the following decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/33 of 17 April 1998, decides to authorize the Commission, as part of its efforts to impart a higher visibility to economic, social and cultural rights, to appoint, for a period of three years, from within existing overall United Nations resources, a special rapporteur whose mandate will focus on the right to education as laid down in article 26 of the Universal Declaration of Human Rights and would comprise the tasks enumerated in paragraphs 6 (i)-(viii) of resolution 1998/... The Council requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of the mandate."

51st meeting
17 April 1998
[Adopted by a vote of 52 votes to 1. See chap. V.]

1998/34. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission on Human Rights,

Recalling its resolution 1992/43 of 3 March 1992, by which it established an open-ended working group to elaborate a draft optional protocol

to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussions the draft text proposed by the Government of Costa Rica (E/CN.4/1991/66), and decided to consider the question at its forty-ninth session,

Recalling also the subsequent resolutions on the subject, in particular resolution 1997/49 of 22 July 1997 of the Economic and Social Council, by which it authorized the working group to hold a new meeting in order to continue its work,

Recalling further that the World Conference on Human Rights firmly declared that efforts to eradicate torture should, first and foremost, be concentrated on prevention and called for the early adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is intended to establish a preventive system of regular visits to places of detention,

Considering that a final text of a draft optional protocol could be completed in one more session of the open-ended working group, given the substantial progress made during the last meeting,

1. Takes notes with appreciation of the report of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1998/42 and Corr.1), and warmly welcomes the progress made during the working group's sixth session;

2. Requests the open-ended working group, in order to continue its work, to meet prior to the fifty-fifth session of the Commission for a period of two weeks, in the course of which the Chairman, in consultation with the working group, may request one additional week with a view to completing expeditiously a final and substantive text, and to report to the Commission at its fifty-fifth session;

3. Requests the Secretary-General to transmit the report of the working group to all Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and intergovernmental and non-governmental organizations, and to invite them to submit their comments to the working group;

4. Also requests the Secretary-General to invite Governments, the specialized agencies and relevant intergovernmental and non-governmental organizations, as well as the Chairperson of the Committee against Torture and

the Special Rapporteur on the question of torture, to participate in the activities of the working group;

5. Further requests the Secretary-General to extend all the necessary facilities to the working group for its meeting prior to the fifty-fifth session of the Commission;

6. Encourages the Chairman to conduct informal consultations with all interested parties, prior to the next session of the working group, in order to present a consolidated text for its consideration;

7. Decides to examine the report of the working group at its fifty-fifth session under the sub-item "Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" of the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment";

8. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council,

Taking note of Commission on Human Rights resolution 1998/... of .. April 1998,

1. Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of two weeks, with a possibility of extending it to three, within existing resources, prior to the fifty-fifth session of the Commission in order to continue or conclude the elaboration of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

2. Requests the Secretary-General to extend to the working group all necessary facilities for its meetings, and to transmit the report of the working group (E/CN.4/1998/42) to Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and the intergovernmental and non-governmental organizations concerned."

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/35. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and political Rights, and bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular, Part I, paragraph 27, and Part II, paragraphs 88, 90 and 95 thereof,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Recalling its resolution 1994/41 of 4 March 1994, in which it requested the Chairman of the Commission to appoint, for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers,

Recalling also its resolution 1995/36 of 3 March 1995, in which it endorsed the decision of the Special Rapporteur to use, beginning in 1995, the short title "Special Rapporteur on the independence of judges and lawyers",

Recalling further General Assembly resolution 40/32 of 29 November 1985, in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and Assembly resolution 40/146 of 13 December 1985,

Recalling General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

Recalling also the recommendations adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders regarding, among other things, the invitation addressed to Member States to ensure the independence and impartiality of the judiciary and the proper functioning of

prosecutorial and legal services in the field of penal justice and police affairs, taking into account the Basic Principles on the Independence of the Judiciary,

Recalling further the Statement of Principles on the Independence of the Judiciary adopted in Beijing in August 1995 by the Sixth Conference of Chief Justices of Asia and the Pacific, and the Cairo Declaration, adopted in November 1995 by the Third Conference of Francophone Ministers of Justice,

Acknowledging the importance for the Special Rapporteur of being able to cooperate closely, in the framework of his mandate, with the Office of the United Nations High Commissioner for Human Rights in the field of advisory services and technical cooperation, which could contribute to guaranteeing the independence of judges and lawyers,

Recognizing the importance of the role of non-governmental organizations, bar associations and professional associations of judges in the defence of the principles of the independence of lawyers and judges,

Noting with concern the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

Taking note of the report (E/CN.4/1998/39 and Add.1-5) submitted by the Special Rapporteur on the independence of judges and lawyers on the implementation of his mandate,

1. Takes note of the report submitted by the Special Rapporteur on the activities relating to his mandate;

2. Also takes note of the cooperative working methods that the Special Rapporteur has adopted to draw up his report and implement his mandate, as described in Commission resolution 1994/41;

3. Welcomes the numerous exchanges the Special Rapporteur has had with several intergovernmental and international organizations and United Nations bodies, and encourages him to continue along this path;

4. Notes with appreciation the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the

judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Office of the United Nations High Commissioner for Human Rights;

5. Invites the United Nations High Commissioner for Human Rights to continue to provide technical assistance to train judges and lawyers and to associate the Special Rapporteur in the elaboration of a manual on the training of judges and lawyers in the field of human rights;

6. Urges all Governments to assist the Special Rapporteur in the discharge of his mandate and to transmit to him all the information requested;

7. Encourages Governments that face difficulties in guaranteeing the independence of judges and lawyers, or that are determined to take measures to implement these principles further, to consult and to consider the services of the Special Rapporteur, for instance by inviting him to their country if the Government concerned deems it necessary;

8. Requests the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its fifty-fifth session, and decides to consider this question at that session;

9. Requests the Secretary-General, within the limits of the United Nations regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate.

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/36. Human rights and forensic science

The Commission on Human Rights,

Recalling its resolutions 1993/33 of 5 March 1993, 1994/31 of 4 March 1994 and 1996/31 of 19 April 1996,

Welcoming the report of the Secretary-General on human rights and forensic science (E/CN.4/1998/32) submitted pursuant to its resolution 1996/31,

Recognizing that forensic science is an important tool in detecting evidence of torture and other cruel, inhuman or degrading treatment or punishment,

Noting that the practice of forensic science includes examinations of both dead and living persons, and also includes identification procedures,

Noting also that in many of the countries concerned, sufficient expertise is not available in forensic science and related fields to investigate human rights violations effectively,

Noting the need of Governments, intergovernmental organizations and non-governmental organizations for forensic scientific expertise in investigating deaths and clarifying disappearances as emphasized in the reports of the Working Group on Enforced or Involuntary Disappearances and of the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as those of various country rapporteurs,

Aware that several special rapporteurs have welcomed efforts towards the institution of a standing team of forensic experts and experts in related fields to assist them in carrying out their human rights mandates,

1. Requests the Office of the High Commissioner for Human Rights to consult with Governments, relevant United Nations bodies and professional organizations of forensic and related experts as mentioned in the reports of the Secretary-General, of which the latest is contained in document E/CN.4/1998/32 of 5 January 1998, with a view to updating the list of experts with their biographical data, including professional qualifications, current employment, contact address, gender (the nomination of female experts is encouraged), indications of availability, and the kind of assistance they could provide;

2. Also requests the Office of the High Commissioner to encourage the forensic and other experts to abide by the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989;

3. Invites the Office of the High Commissioner and the Crime Prevention and Criminal Justice Division of the Secretariat to consider revising the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions in which standard procedures for adequate post-mortem examinations (autopsies or partial autopsies) are described;

4. Also invites the Office of the High Commissioner to consider the possibility that forensic experts coordinate and produce additional manuals concerned with examinations of living persons for the following two areas of forensic medicine:

(a) Clinical forensic examinations, conducted in a gender-sensitive manner, to document injuries which may be caused by torture and other cruel, inhuman or degrading treatment, including an assessment of any physical and psychological symptoms, of detained persons; war prisoners; women who may have been exposed to rape and sexual violence; civilians in areas where human rights may have been violated; refugees from areas in which evidence is available regarding use or suspicion of use of torture and other cruel, inhuman or degrading treatment; detainees in psychiatric institutions and children in youth institutions in regions where there is a suspicion that their rights have been violated or that they have been subjected to torture or other cruel, inhuman or degrading treatment;

(b) Examinations to identify children of persons who have disappeared or children who have been subjected to enforced disappearance;

5. Recommends that the Office of the High Commissioner encourage, as appropriate, the dissemination and use of the manuals referred to in the present resolution and the setting up of courses aimed at providing training in forensic activities relating to victims of human rights violations, particularly in countries without sufficient expertise in forensic science and related fields, for example through the training of local teams;

6. Also recommends that the Office of the High Commissioner establish procedures to evaluate the use of forensic expertise and the results of those efforts;

7. Requests the Office of the High Commissioner to report to the Commission at its fifty-sixth session on progress made in this matter, including:

(a) The availability of a comprehensive and up-to-date list of forensic experts;

(b) A revised standardized service agreement regulating the use of the forensic experts, including provisions for the protection of the experts who so serve;

8. Requests the Secretary-General to provide appropriate resources, from within existing overall United Nation resources, to fund the activities of the Office of the High Commissioner in implementing the present resolution;

9. Decides to consider the question at its fifty-sixth session under the item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/37. United Nations staff

The Commission on Human Rights,

Recalling its resolution 1997/25 of 11 April 1997,

Gravely concerned at the recent increase in attacks and the use of force against United Nations and other personnel acting under the authority of United Nations operations as well as personnel of international humanitarian organizations, including murder, physical and psychological threats, hostage-taking, shooting at vehicles and aircraft, mine-laying, looting of assets and other hostile acts, and, in this context, welcoming the statement by the President of the Security Council of 12 March 1997 (S/PRST/1997/13) on "Security of United Nations operations",

Noting that, since its adoption the Convention on the Safety of United Nations and Associated Personnel has only been signed by 43 Member States and ratified by 17,

1. Takes note of the report of the Secretary-General on the security of United Nations personnel (E/CN.4/1998/33);

2. Draws attention to the relevant principles on protection found in the Convention on the Privileges and immunities of the United Nations, in the Convention on the Privileges and Immunities of the Specialized Agencies and the Convention on the Safety of United Nations and Associated Personnel;

3. Calls upon all States to consider promptly becoming parties to the Convention on the Safety of United Nations and Associated Personnel;

4. Calls upon all States and others concerned:

(a) To respect and ensure respect for the rights of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to take the necessary measures to ensure the

safety and security of those personnel as well as the inviolability of United Nations premises which are essential to the continuation and successful implementation of United Nations operations;

(b) To provide adequate and prompt information concerning the arrest or detention of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(c) To grant the representative of the competent international organization immediate access to such personnel;

(d) To allow independent medical teams to investigate the health of detained United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to afford them the necessary medical assistance;

(e) To allow representatives of the competent international organization to attend hearings involving United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, provided that such attendance is consistent with domestic law;

(f) To ensure the speedy release of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who have been arrested or detained in violation of their immunity, in accordance with the relevant conventions referred to in the present resolution and applicable international humanitarian law;

(g) To ensure that the perpetrators of unlawful acts against United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are held accountable for their actions;

5. Requests the Secretary-General:

(a) To take the necessary measures to ensure full respect for the human rights, privileges and immunities of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and, when those human rights, privileges and immunities are violated, to ensure that such personnel are restored to their organization, and, where appropriate, to seek redress and compensation for the damage caused to them;

(b) To take the necessary measures to implement the recommendations contained in the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the protection

of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19), including the recommendations contained in paragraphs 45 and 47;

(c) To seek the inclusion of the applicable principles referred to in paragraph 2 of the present resolution in negotiations of headquarters and other mission agreements concerning United Nations and associated personnel;

(d) To submit to the Commission at its fifty-sixth session a report on the situation of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who are imprisoned, missing or held in a country against their will, on new cases which have been successfully settled as they relate to the principles set out in the International Covenants on Human Rights, and on the implementation of the measures referred to in the present resolution;

(e) To submit to the Commission at its fifty-sixth session the comprehensive and independent study, requested from within existing resources, in resolution 1997/25, to shed further light on the safety and security problems which United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation currently face, taking into account the evolution of the nature of United Nations missions around the world and their greater responsibilities, giving due consideration to the views of the main United Nations agencies concerned and those of relevant intergovernmental and non-governmental organizations.

51st meeting
17 April 1998

[Adopted without a vote. See chap. VIII.]

1998/38. Torture and other cruel, inhuman or degrading treatment or punishment

The Commission on Human Rights,

Reaffirming that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment, that such actions constitute a criminal attempt to destroy a fellow human being physically and mentally, which can never be justified under any circumstances, by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

Recalling that freedom from torture and cruel, inhuman or degrading treatment or punishment is a non-derogable right and that the prohibition of

torture is explicitly affirmed in article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as in the relevant provisions of other international human rights instruments such as the Convention on the Rights of the Child, the Vienna Declaration and Programme of Action, the Declaration on the Elimination of All Forms of Violence against Women and the four Geneva Conventions of 1949 for the protection of war victims,

Appalled at the widespread occurrence of torture and other cruel, inhuman or degrading treatment or punishment,

Recalling all relevant resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights, in particular Assembly resolution 51/86 of 12 December 1996 and Commission resolution 1997/38 of 11 April 1997,

Mindful of the proclamation by the General Assembly in its resolution 52/149 of 10 December 1997 of 26 June as United Nations International Day in Support of Victims of Torture,

1. Calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23) and, in particular, of Part II, section B.5, relating to freedom from torture, in which it is stated that States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law;

3. Reminds Governments that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture;

4. Stresses in particular that all allegations of torture or cruel, inhuman or degrading treatment or punishment should be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate such acts must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have taken place, and that

national legal systems should ensure that the victims of such acts obtain redress and be awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation;

5. Reminds all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment;

6. Calls upon all Governments, the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies as well as relevant intergovernmental and non-governmental organizations to commemorate on 26 June the United Nations International Day in Support of Victims of Torture;

7. Takes note of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1998/36/Rev.1);

8. Urges all States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority;

9. Invites all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declaration provided for in articles 21 and 22 of the Convention and to avoid making, or consider the possibility of withdrawing, reservations to article 20;

10. Encourages States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

11. Urges all States parties to comply strictly with their obligations in accordance with article 19 of the Convention, including their reporting obligations, and, in particular, those States parties whose reports are long overdue to submit their reports forthwith;

12. Stresses that under article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment acts of torture must be made an offence under domestic criminal law and that acts of torture during armed conflict are considered a grave breach of the Geneva Conventions of 1949, with the perpetrators liable to prosecution and punishment;

13. Emphasizes the obligation of States parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual

subjected to any form of arrest, detention or imprisonment, and calls upon the United Nations High Commissioner for Human Rights, in conformity with her mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide, at the request of Governments, advisory services in this regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for this purpose;

14. Stresses in this context that States must not punish personnel referred to in the preceding paragraph for not obeying orders to commit acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

15. Welcomes the report of the Committee against Torture on its seventeenth and eighteenth sessions (A/52/44);

16. Also welcomes the work of the Committee against Torture and its practice of formulating concluding observations after the consideration of reports, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture in States parties;

17. Urges States parties to take fully into account, in implementing the provisions of the Convention, the conclusions and recommendations made by the Committee at the end of the consideration of their reports;

18. Requests the Secretary-General to submit to the Commission an annual report on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

19. Commends the Special Rapporteur for his work as reflected in his report (E/CN.4/1998/38 and Add.1 and Add.2);

20. Notes the recommendations of the Special Rapporteur contained in his report, as well as the recommendations made in previous years;

21. Decides to extend for three years the mandate of the Special Rapporteur on torture;

22. Invites the Special Rapporteur to continue to examine questions concerning torture and other cruel, inhuman or degrading treatment or punishment directed against women and conditions conducive to such torture, to make appropriate recommendations concerning the prevention and redress of gender-specific forms of torture, including through rape, and to exchange views with the Special Rapporteur on violence against women with a view to enhancing further their effectiveness and mutual cooperation;

23. Also invites the Special Rapporteur to continue to consider questions relating to the torture of children and conditions conducive to such torture and other cruel, inhuman or degrading treatment or punishment and to make appropriate recommendations concerning the prevention of such torture;

24. Approves the methods of work employed by the Special Rapporteur as set out in his previous report (E/CN.4/1997/4, annex), in particular with regard to urgent appeals, encourages him to continue to respond effectively to credible and reliable information that comes before him and invites him to continue to seek the views and comments of all concerned, including Governments, in the elaboration of his report;

25. Calls upon all Governments to cooperate with and assist the Special Rapporteur on torture in the performance of his task, to supply all necessary information requested by him and to react appropriately to his urgent appeals;

26. Urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer expeditiously;

27. Encourages all Governments to give serious consideration to inviting the Special Rapporteur to visit their countries, so as to enable him to fulfil his mandate even more effectively;

28. Requests the Special Rapporteur to continue to consider inclusion of information in his report on the follow-up by Governments to his recommendations, visits and communications;

29. Considers it desirable that the Special Rapporteur continue to exchange views with the relevant human rights mechanisms and bodies, especially the Committee against Torture and the High Commissioner for Human Rights, in particular with a view to enhancing further their effectiveness and mutual cooperation, while avoiding unnecessary duplication, and that he should pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice;

30. Invites the Special Rapporteur to present an oral interim report to the General Assembly at its fifty-third session on the overall trends and developments with regard to his mandate and a full report to the Commission at its fifty-fifth session;

31. Takes note of the reports of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1998/37 and Add.1 and Add.2 and A/52/387);

32. Expresses its appreciation to the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture for the work it has accomplished and to those Governments, organizations and individuals that have already contributed to the Fund;

33. Appeals to all Governments, organizations and individuals in a position to do so to contribute annually to the Fund, if possible with a substantial increase in the number and level of contributions in order to take into consideration the ever-increasing demand for assistance;

34. Stresses the need for contributions to the Fund on a regular basis and takes note of the request of the Board of Trustees that such contributions be paid before the Board's annual meeting in May in order, inter alia, to prevent the interruption of programmes in the continuation of which the Fund plays an instrumental role;

35. Stresses in particular the increasing need for assistance to rehabilitation services for victims of torture;

36. Requests the Secretary-General to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

37. Renews its request to the Secretary-General to transmit to all Governments the appeals of the Commission for contributions to the Fund;

38. Calls upon the Board of Trustees of the Fund to report to the Commission at its fifty-fifth session and present an updated assessment of the global need for international funding of rehabilitation services for victims of torture;

39. Requests the Secretary-General to continue to keep the Commission informed of the operations of the Fund on an annual basis;

40. Urges States parties whose arrears pre-date the provision made by the Secretary-General for funding the Committee against Torture from the regular budget to fulfil their obligations forthwith;

41. Requests the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing as well as the necessary technical facilities for the

United Nations bodies and mechanisms dealing with torture, in order to ensure their effective performance;

42. Decides to continue to consider these questions at its fifty-fifth session.

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/39. Human rights in the administration of justice in particular of children and juveniles in detention

Guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocols, and in particular article 6 of the latter Covenant,

Bearing in mind the relevant principles embodied in the Convention on the Rights of the Child, and in particular its articles 3, 37, 39 and 40, as well as the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women,

Deeply concerned at the severity and brutality with which children and juveniles are used as instruments in criminal activities,

Aware of the need for special vigilance with regard to the specific situation of children and juveniles as well as women in detention and their special needs while deprived of their liberty, in particular their vulnerability to various forms of abuse, injustice and humiliation,

Reaffirming that the best interest of the child must be a primary consideration in all decisions concerning the deprivation of their liberty, in

particular that every child deprived of liberty shall be separated from adults, to the greatest extent feasible, unless it is considered in the child's best interest not to do so,

Underlining the need to further increase the cooperation in the field of the administration of justice between the Commission on Human Rights and the Commission on Crime Prevention and Criminal Justice,

Welcoming the important activities of the Committee on the Rights of the Child, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention and the United Nations Development Programme in the field of juvenile justice,

Welcoming also the Guidelines for Action on Children in the Criminal Justice System, as annexed to Economic and Social Council resolution 1997/30 on administration of juvenile justice, including the establishment of a coordination panel on technical advice and assistance in juvenile justice,

1. Takes note with appreciation of the report of the Secretary-General (E/CN.4/1998/35);

2. Reaffirms the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. Reiterates its call to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of these standards;

4. Appeals to Governments to include in their national development plans the administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal-aid services with a view to the promotion and protection of human rights;

5. Invites Governments to provide training, including gender-sensitive training, in human rights in the administration of justice, including juvenile justice, to all judges, lawyers, prosecutors, social workers and other professionals concerned, including police and immigration officers;

6. Encourages States to make use of technical assistance offered by the United Nations programmes of advisory services and technical assistance in order to strengthen national capacities and infrastructures in the field of the administration of justice;

7. Invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;

8. Calls upon the Secretary-General to strengthen system-wide coordination in the field of administration of justice, in particular between the United Nations programmes in the field of human rights and crime prevention and criminal justice;

9. Welcomes the fact that the Committee on the Rights of the Child attaches particular importance to the question of the administration of juvenile justice and that it has made concrete recommendations concerning the improvement of juvenile justice systems, through action by the Secretariat and other relevant United Nations entities, including the provision of advisory services and technical cooperation;

10. Also welcomes the establishment of a Coordination Panel on technical advice and assistance in juvenile justice which aims at coordinating activities in the field of juvenile justice undertaken by rele ant entities of the United Nations system as well as non-governmental organizations, professional groups and academic societies involved in the provision of technical advice and assistance;

11. Requests the High Commissioner for Human Rights to continue to pay special attention to the subject of juvenile justice;

12. Calls upon special rapporteurs, special representatives and working groups of the Commission on Human Rights to continue to give special attention to questions relating to the effective protection of human rights in the administration of justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for measures of advisory services and technical assistance;

13. Recognizes that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her dignity and needs;

14. Recommends that States ensure that all structures, procedures and programmes in the administration of justice with regard to child offenders promote assistance to allow children to take responsibility for their actions

and to encourage, inter alia, reparation, mediation and restitution, especially for the direct victim of the offence;

15. Urges States to take appropriate steps to ensure compliance with the principle that depriving children and juveniles of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and to ensure that, if they are arrested, detained or imprisoned, children and juveniles are separated from adults, to the greatest extent feasible, unless it is considered in their best interest not to do so;

16. Also urges States to take fully into account, in their national legislation and practice, and disseminate widely the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

17. Requests the Secretary-General to present a report to the Commission at its fifty-sixth session on practical measures for the implementation of the international standards in the field of human rights in the administration of justice, in particular juvenile justice, including on the role of technical assistance of the United Nations system in this regard;

18. Decides to consider this question at its fifty-sixth session under the item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/40. Question of enforced or involuntary disappearances

The Commission on Human Rights,

Recalling its resolution 20 (XXXVI) of 29 February 1980, in which it decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, its resolution 1997/26 of 11 April 1997 and its resolution 1995/75 of 8 March 1995 on cooperation with representatives of United Nations human rights organs,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States, and Assembly resolutions 49/193 of 23 December 1994 and 51/94 of 12 December 1996,

Deeply concerned, in particular, by the intensification of enforced or involuntary disappearances in various regions of the world and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Emphasizing that impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof,

1. Takes note of the report (E/CN.4/1998/43) that the Working Group on Enforced or Involuntary Disappearances has submitted to the Commission on Human Rights in accordance with Commission resolution 1997/26 of 1 April 1997;

2. Encourages the Working Group to continue, in execution of its mandate:

(a) To promote communication between families of disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) To observe in its humanitarian task United Nations standards and practices regarding the handling of communications and the consideration of government replies;

(c) To consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance and of the final reports submitted by the rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(d) To pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons, and cooperate closely with the Governments concerned in searching for and identifying these children;

(e) To pay particular attention to cases transmitted to it that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

(f) To pay particular attention to cases of the disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(g) To continue applying a gender perspective in its reporting process, including in information collection and formulation of recommendations;

(h) To provide appropriate assistance with the implementation by States of the Declaration on the Protection of All Persons from Enforced Disappearance and of the existing international rules;

(i) To continue its deliberations on its working methods and to include these aspects in its report to the fifty-fifth session of the Commission on Human Rights;

3. Deplores the fact that some Governments have never provided substantive replies concerning the cases of enforced disappearances in their countries or acted on the recommendations concerning them made in the reports of the Working Group;

4. Urges the Governments concerned:

(a) To cooperate with the Working Group and help it to carry out its mandate effectively, in particular by inviting it freely to visit their countries;

(b) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(c) To take steps to protect witnesses of enforced or involuntary disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

(d) That have long had many unresolved cases of disappearances, to continue their efforts to shed light on the fate of the individuals concerned and to set in train with the families of those individuals appropriate settlement machinery;

(e) To make provision in their legal systems for machinery for the seeking by victims of enforced or involuntary disappearances or their families of fair and adequate reparation;

5. Reminds Governments:

(a) That all acts of enforced or involuntary disappearance are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under penal law;

(b) Of the need to ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

6. Expresses:

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information, and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations, and invites them to inform the Working Group of any action they take on those recommendations;

(b) Its commendation of the efforts by Governments which investigate, or develop appropriate mechanisms to investigate, any cases of enforced disappearances which are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

7. Invites:

(a) States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced, involuntary or arbitrary disappearances and in giving effect to the principles set forth in the Declaration on the Protection of All Persons from Enforced Disappearance;

8. Takes note of non-governmental organizations' assistance to the Working Group and activities in support of the implementation of the Declaration, and invites those organizations to continue their cooperation;

9. Requests the Working Group to report on its activities to the Commission at its fifty-fifth session;

10. Requests the Secretary-General:

(a) To ensure that the Working Group receives all the assistance and resources, especially a database on cases of enforced disappearance, that it requires to perform its function, carry out and follow up missions, hold

sessions in countries that would be prepared to receive it and update the database;

(b) To keep the Working Group and the Commission on Human Rights regularly informed of the steps he takes for the wide dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance;

11. Decides to renew for a period of three years the mandate of the Working Group on Enforced or Involuntary Disappearances comprising five independent experts;

12. Decides to consider this matter at its fifty-fifth session under the same agenda item.

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/41. Question of arbitrary detention

The Commission on Human Rights,

Reaffirming articles 3, 9, 10 and 29, as well as other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Bearing in mind that, in accordance with the Commission's resolution 1991/42 of 5 March 1991, the task of the Working Group on Arbitrary Detention is to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned,

Reaffirming its resolution 1997/50 of 15 April 1997,

Having considered the report of the Working Group on arbitrary detention (E/CN.4/1998/44 and Add.1 and 2),

1. Takes note:

(a) Of the work of the Working Group on Arbitrary Detention and underlines positive initiatives it has taken to strengthen cooperation and dialogue with States, and the establishment of cooperation with all those concerned by the cases submitted to it for consideration, in accordance with its mandate;

(b) Of the importance that the Working Group attaches to coordination with other mechanisms of the Commission on Human Rights, with other relevant United Nations bodies and with treaty-monitoring bodies, as well as to the strengthening of the role of the High Commissioner for Human Rights in such coordination, and encourages the Working Group to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field visits;

(c) Of the report of the Working Group;

2. Welcomes the efforts of the Working Group on Arbitrary Detention to revise its methods of work in accordance with resolution 1997/50;

3. Takes note in this regard of its revised methods of work (E/CN.4/1998/44, annex I) and invites it to ensure their implementation, in accordance with the relevant provisions of Commission resolutions 1996/28 and 1997/50;

4. Takes note also of the preliminary observations made by the Working Group on the situation of immigrants and asylum-seekers, in accordance with the request made by the Commission on Human Rights in its resolution 1997/50, and encourages it to continue its work in this area;

5. Requests Governments concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

6. Encourages Governments concerned:

(a) To pay attention to the recommendations of the Working Group concerning persons mentioned in its report who have been detained for a number of years;

(b) To take appropriate measures in order to ensure that their legislation in these fields is in conformity with the relevant international

standards and the relevant international legal instruments applicable to the States concerned, and not to extend states of emergency beyond what is strictly required by the situation, or to limit their effects;

7. Encourages all Governments to invite the Working Group to visit their countries in order that it may fulfill its mandate even more effectively;

8. Requests Governments concerned to give the necessary attention to the "urgent appeals" addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its final conclusions;

9. Expresses its profound thanks to Governments which have extended their cooperation to the Working Group and responded to its requests for information, and invites all Governments concerned to demonstrate the same spirit of cooperation;

10. Welcomes the fact that the Working Group has been informed of the release of many individuals whose situation had been brought to its attention;

11. Requests the Secretary-General:

(a) To extend his assistance to Governments expressing the wish to receive it, as well as to Special Rapporteurs and working groups, with a view to ensuring promotion and observance of the guarantees relating to states of emergency that are laid down in the relevant international instruments;

(b) To ensure that the Working Group receives all necessary assistance, particularly in regard to staffing and resources needed to discharge its mandate, and notably with respect to field missions;

12. Requests the Working Group to submit to it, at its fifty-fifth session, a report on its activities and on the implementation of the present resolution, and to include any suggestions and recommendations which would enable it to discharge its task in the best possible way, and to continue its consultations to that end within the framework of its terms of reference;

13. Decides to continue its consideration of the question at its fifty-fifth session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

51st meeting
17 April 1998
[Adopted without a vote. See chap. VIII.]

1998/42. Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice,

Mindful also that the International Covenant on Civil and Political Rights also states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but that these should be only such as are provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or public order (ordre public) or of public health or morals, and that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Taking note of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995,

Mindful of the need to ensure that unjustified invocation of national security to restrict the right to freedom of expression and information does not take place,

Noting that restrictions on the exercise of the right to freedom of opinion and expression could indicate a deterioration in the protection, respect for and enjoyment of other human rights and freedoms,

Considering that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

Reaffirming that education is an integral component of the full and effective participation of persons in a free society, in particular for the

full enjoyment of the right to freedom of opinion and expression, and that the eradication of illiteracy is very important to the achievement of these goals and to the development of the human person,

Deeply concerned at numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information,

Taking note of the need to raise awareness about all aspects of the interrelationship between the use and availability of new media of communication, including modern telecommunications technology, and the right to freedom of expression and information, and of the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

Deeply concerned that for women there exists a gap between the right to freedom of opinion and expression, the right to information and the effective enjoyment of those rights, and that this gap contributes to inadequate action by Governments in the integration of the human rights of women into the mainstream of their human rights activities,

1. Reaffirms its commitment to the principles contained in the International Covenant on Civil and Political Rights;

2. Welcomes the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1998/40 and Add.1 and Add.2) and the comments and analysis contained therein;

3. Expresses its concern at the extensive occurrence of detention, long-term detention and extrajudicial killing, persecution and harassment, including through the abuse of legal provisions on criminal libel, of threats and acts of violence and of discrimination directed at persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs, as well as at persons who seek to promote the rights affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and seek

to educate others about them or who defend those rights and freedoms, including legal professionals and others who represent persons exercising those rights;

4. Also expresses its concern at the number of cases in which the violations referred to in paragraph 3 of the present resolution are facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without formal declaration, and too vague a definition of offences against State security;

5. Calls for further progress towards release of persons detained for exercising the rights and freedoms referred to in paragraph 3, bearing in mind that each individual is entitled to the full enjoyment of all human rights and fundamental freedoms;

6. Invites once again the working groups, representatives and special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments;

7. Urges Governments to implement effective measures to eliminate the atmosphere of fear which often prevents women who have been victims of violence, either in domestic or community settings or as a result of armed conflict, from communicating freely on their own behalf or through intermediaries;

8. Appeals to all States:

(a) To ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs or who seek to promote and defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence or to harassment, including persecution and intimidation even after their release from detention, for exercising these rights as laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human

rights instruments, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

(b) To ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, and in this context to pay particular attention to the situation of women;

(c) To cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate;

9. Invites the Special Rapporteur, within the framework of his mandate:

(a) To draw the attention of the United Nations High Commissioner for Human Rights to those situations and cases regarding freedom of opinion and expression which are of particularly serious concern to the Special Rapporteur, and encourages the High Commissioner, within her mandate, to take into account reports in this regard in the context of her activities to promote and protect human rights, with a view to preventing the occurrence and recurrence of human rights violations;

(b) In cooperation with the Special Rapporteur on violence against women, to continue to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, and to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live;

(c) To continue his efforts to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights;

(d) To develop further his commentary on the right to seek and receive information and to expand on his observations and recommendations arising from communications;

(e) To continue to seek the views and comments of the Governments and others concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

(f) To assess the advantages and challenges of new telecommunications technologies, including the Internet, on the exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information, taking into account the work undertaken by the Committee on the Elimination of Racial Discrimination on racism, racial discrimination, xenophobia and related intolerance;

10. Requests the Special Rapporteur to submit to the Commission at its fifty-fifth session a report covering activities relating to his mandate and decides to continue its consideration of this question at that session.

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